

Leahey & Johnson P.C.
Attorneys at Law

(212) 269-7308
FACSIMILE (212) 422-4751
www.leaheyandjohnson.com

120 Wall Street New York N.Y. 10025

December 3, 2021

Hon. Joseph F. Bianco, Visiting Circuit Judge
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ DEC 06 2021 ★

LONG ISLAND OFFICE

**Re: Moroughan v. The County of Suffolk, et al.
12-cv-0512 (JFB) (AKT)**

Dear Judge Bianco:

My office represents the County of Nassau and P.O. Edward Bienz in the above-referenced matter. This application is made on consent of all parties to request an extension of time to submit the Joint Pretrial Order in this matter.

Pursuant to Your Honor's Order dated October 8, 2021 [DE 314] the deadline to file the Joint Pretrial Order had been extended to December 10, 2021. We write on behalf of all parties to request that the deadline to file the Joint Pre-Trial Order be extended to January 17, 2022.

All parties recognize that this request seeks an additional extension. Regretfully the undersigned was incapacitated from work throughout the month of November, and presently remain on bed rest, due to a debilitating 4-week bout of influenza followed by bronchitis and sinusitis. As a result, I have been unable to conduct the necessary work required in order to complete preparation of the comprehensive Joint Pre-Trial Order in this complex matter involving close to fifty potential trial witnesses and more than five hundred potential trial exhibits, each of which must be examined, considered, discussed, addressed, and objected to as necessary, among many other similar issues as required by this Court's rules. Due to my poor health, I am unable to conduct the necessary work required to complete this task in a timely manner.

The parties met and conferred at length on December 1, 2021, to address this, and other issues. As a result of that discussion the parties agreed to submit this joint application. Defendants will provide a detailed proposed joint pretrial order in response to plaintiff's initial draft as to items 1-8, and 10-11 as set forth in your Honor's Individual Rules as pertains to the joint pretrial order on or before January 7, 2022. The final proposed joint pretrial order will be finalized and filed no later than January 17, 2022. With respect to item 9, which requires the parties to designate, cross designate and where necessary object to deposition testimony to be

read at trial, inasmuch as there were close to fifty depositions conducted in this case, the parties understand that based upon this Court's previous rulings [DE 308/310 and DE 312/314] that the parties have been relieved of this requirement. We understand that the parties have been permitted to designate the entire transcript of a particular witness in the Joint Pretrial Order, and thereafter, should that witness become unavailable, to submit formal designations prior to the commencement of trial.

Finally, I agreed to provide the plaintiff with a duplicate set of the NCPD rules and procedures in effect on the date of incident, which were previously disclosed, but inadvertently misplaced. For the reasons stated above, I have been unable to fulfill that promise. Accordingly, in the unlikely event those materials are not disclosed to Plaintiff's counsel prior to January 17, 2022, due to circumstances beyond my control, all counsel agree to amend the joint pretrial order to allow Plaintiff the opportunity to designate those specific documents necessary to the prosecution of his case.

Accordingly, the parties jointly request that the deadline to submit the Joint Pretrial Order in this case be extended until January 17, 2022. We are grateful for the Court's time and consideration of this application.

Respectfully submitted,

LEAHEY & JOHNSON, P.C.

Christopher Delamere Clarke

Christopher Delamere Clarke [CDC 6160]

On Consent of All Parties
Via ECF

Request granted.

AS ORDERED

s/ Joseph F Bianco

Joseph F. Bianco, USCJ

Sitting by Designation.

Date: Dec. 6 2021

Central Islip, N.Y.